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# IN EQUITY. CHARLESTON DISTRICT.

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WILLIAM RAVENEL, AND OTHERS,  
EXECUTORS OF THOMAS BENNETT LUCAS.

vs.

MRS. MARY CATHARINE LUCAS,  
AND OTHERS.

Bill for Account and Settlement of Estate.

BEFORE MR. TUPPER, MASTER.

PETIGRU & KING,  
MEMMINGER, JERVEY & WILKINSON,  
*Solicitors for Plaintiffs.*

NELSON MITCHELL,  
MACBETH & BUIST,  
SIMONS & SIMONS,  
McCRADY & SON,  
HAYNE & MILES,

BROWN & PORTER,  
WHALEY & LORD,  
JAMES B. CAMPBELL,  
WILLIAM WHALEY,  
*Solicitors for Defendants.*

CHARLESTON:

STEAM-POWER PRESSES OF EVANS & COGSWELL  
Nos. 3 Broad and 103 East Bay Streets.

1861.

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## IN EQUITY—CHARLESTON.

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WILLIAM RAVENEL, *et al.*, Executors of THOMAS BENNETT LUCAS,

*vs.*

MARY CATHERINE LUCAS, *et al.*

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### **Report of JAMES TUPPER, Master in Equity.**

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*To the honorable the Chancellors:*

On the 7th March, 1860, I submitted a report upon the evidence which had been taken in this case up to that time.

On the 16th November, 1860, an order was made by Chancellor Carroll, recommitting the said report, with instructions to the Master “to take the accounts of the executors and report thereon; and also as to the claim of the widow to dower, and of the other parties in interest before the Court.” And on the 8th February, 1861, it being then suggested that such an account could not be properly taken without making the creditors parties according to the course of this Court, it was ordered, by Chancellor Dunkin, that the Master “give notice in the public gazettes of Charleston to the creditors of the said Thomas Bennett Lucas to prove their demands before him on or before the 1st day of April, 1861; and that, in case of their failure to come

in and prove their said demands, they be excluded from the benefit of the decree in this case."

The accounts of the executors have been submitted and examined. No objection has been made to them. They are herewith filed as Exhibit A. The cash balance in the executors' hands on the 19th May, 1861, when the accounts were closed, was \$90,510 31. In addition to this sum, there is to the credit of the executors, in the Savings Institution of this city, the following amounts:

Deposited by them on the 12th Dec., 1859.....	\$ 4,500
And on the 29th March, 1860.....	20,500
<hr/>	
In all.....	\$25,000

These deposits, it is understood, were made to meet the claim of the widow to dower. The scheme of this report, however, requires that the above deposits be not separated from the general assets of the estate. I have, therefore, added them to the balance of \$90,510 31, admitted by the executors' accounts to be in their hands, which makes the cash \$115,510 31. The executors also hold bonds due to the estate of their testator for \$18,140, and simple contract demands against sundry debtors of the estate for \$11,681 06. These assets are represented to be good, and with one exception, viz: a claim on open account against James B. Campbell, Esquire, for \$2,494 42, are supposed to be available for the payment of the debts of the estate. To the claim against Mr. Campbell a discount has been set off and established by proof for an amount which exceeds by \$161 31 the claim of the estate against him. Mr. Campbell claims other demands against the estate of Lucas, but of these no proof has been furnished. From the schedule of the assets of the estate, I have deducted the claim against Mr. Campbell, and placed the balance in his favor among the debts on simple contract due by the estate. The true sum of the cash and uncollected assets thus ascertained is found to be \$142,836 95, as appears by Exhibit B.

Pursuant to the order of the 8th February, 1861, notice was given, for four weeks, in the daily morning papers of

the city, to the creditors of the late Thomas Bennett Lucas, to come in and prove their demands before the 1st day of April, 1861, or failing to do so that they would be excluded from the benefit of the decree to be made in this cause. Under this order a large number of claims has been presented. Many of these claims were not disputed, and having been proved in the usual way are allowed. Upon others, questions are raised which require the adjudication of the Court before a final settlement of the estate can be effected.

1. The first claim of this kind is upon a joint and several *bond of J. B. Campbell and Thomas Bennett Lucas*, dated the 20th January, 1858, and conditioned for the payment to William Whaley, administrator of Dr. G. W. Morris, of \$3,500, in five equal successive annual instalments, with interest from date, payable annually. The interest has been paid to the 1st March, 1859. The evidence taken upon this claim is, that the "bond was given for the purchase money of ten slaves, bought by Mr. Campbell from the estate of George W. Morris. That the bond was secured by a mortgage of the slaves, and by the personal security of T. B. Lucas, as a joint obligor of the bond. Mr. Campbell is in possession of the negroes." The obligee insists upon his legal right to come in as a bond creditor of Thomas Bennett Lucas, and receive payment out of his estate. The well-established doctrine of this Court is, that the surety is entitled to the benefit of all the securities which the creditor obtains from the debtor for the payment of the debt, and that the creditor must exhaust these before he can come on the surety for payment. It does not appear from anything before me that the mortgaged property is insufficient to pay the debt in full. The sum of the bond for principal and interest is \$4,030 12, and a mortgage of ten slaves would seem to be ample security for a debt of that amount. But this may not be the case at this particular time. The obligee of the bond is clearly entitled to rank as a specialty creditor of the estate

of T. B. Lucas, to the extent of any deficiency in the mortgage security to meet his demand in full, and I so find.

2. The second claim is made on behalf of the holders of sundry *Bills of Exchange*, drawn by Thomas Bennett Lucas, on Thomas Scott and Wilbur & Price, of New York, and accepted by them. The bills are under protest in the hands of certain banks and citizens of this State, who claim, as holders of said protested bills, to rank as specialty creditors in the distribution of Mr. Lucas' estate. This claim is founded upon the A. A., 1786, 4 Stat. at Large, page 741, sec. 2, which provides, among other things, that "all creditors on protested bills of exchange, when the drawers or endorsers shall be dead, shall be upon an equality with bond creditors, any law, usage or custom, to the contrary notwithstanding." Against this it is urged that the foregoing provision of the Act of 1786 is repealed, by implication, by the "Executors' Act" of 1789, 5 Stat. at Large, p. 111. The latter Act prescribes the order in which debts of testators and intestates are to be paid. Among the debts enumerated by this act are "bonds and other obligations," and "debts due on open accounts." Unless bills of exchange can be classed under one of these two heads, there is clearly no description of debts in this Act which includes them. And it does not seem to me that they can properly fall within the denomination of either bonds, obligations or open accounts. These terms have a definite legal signification, and describe a class of debts entirely distinct from bills and promissory notes. If bills of exchange are not included among the debts enumerated in the Act of 1789, then there is no such contrariety or repugnance between that Act and the Act of 1786, as, in my view, indicates an intention on the part of the Legislature to repeal the Act of 1786. And so it was held in the case of *McClure vs. Exors. of Polony*, a ms. decision referred to in 1 Rice's Digest, 318. It does not appear from the brief statement furnished me of this case, whether the foreign bills, there held to rank as specialty debts under the Act of 1786, were

protested before or after the death of the drawer. This, it has been argued, is a material circumstance. Although not so regarding it, the exceptants to the view I have taken are entitled to have the fact certified to the Court, that all the bills established in the present case matured, and were protested for non-payment after the death of Mr. Lucas, the drawer.

The foreign bills presented and proved under the call for creditors, in this case, are set down in Schedule C. The aggregate sum due upon these bills is \$126,255 04. This includes interest on the said bills to the 1st April, 1861—to which day all the statements of this report are made up—and, also, ten per cent. for "damages" allowed by the Act of 1786 on "the sum drawn for." Certain collaterals were lodged by Mr. Lucas, during his life, with the Bank of Charleston, to secure the payment of the bills drawn on Thomas Scott. One of these collaterals was a policy of life insurance for \$40,000, from which \$39,000 had been realized and applied rateably to the bills before they were rendered to this office. The amount above given (\$126,255 04) is the balance due after crediting the said payments. The remaining collaterals, still held by the Bank of Charleston, consist of

36½ shares in the capital stock of the "Cannonsboro' Mill Company," standing in the name of T. Bennett Lucas, the par value of which is \$1,000 per share.....	\$36,500
Bond of Henry E. Lucas to T. Bennett Lucas (secured by a second mortgage of "Crow Island Plantation," also by a first mortgage of "Kinloch Swamp," and by a first mortgage of twenty-six negroes), for .....	31,500
Two Bonds of Courtney and Simonton (secured by	

mortgage of lots in —— street), for ..... 3,400

In adjusting the estate of Lucas, these collaterals must be regarded as assets. If not applied by the holders to the particular debts for which they are held as security, and these debts are paid out of the general assets, then the collaterals revert to the estate. In any event it is

important, for the purposes of this report, that the value of these securities should be ascertained and set off against the liabilities of the estate; and it cannot affect the final result of the account if they are set off against the particular liabilities for the payment of which they are now hypothecated. Testimony has been taken as to the value of the securities. As to the stock in the Cannonsboro' Mill Company, it has been intimated that there is some claim now being prosecuted by the said Company in another cause in this Court, for which claim the shares of Mr. Lucas in said Company are said to be liable. Of the nature of this claim I have no official information. The evidence before me, however, shows that an offer was made by the President of the Cannonsboro' Mill Company to purchase from the executors of Mr. Lucas the shares standing in their testator's name, subject to all claims, for ten thousand dollars, and that this offer was declined, being considered far below the value of the said shares. I have, therefore, assumed ten thousand dollars as the minimum value of this stock. As to the other securities held by the Bank of Charleston, the testimony is that the land mortgaged to secure the bond of Henry E. Lucas, who is insolvent, viz : "Crow Island Plantation" and "Kinloch Swamp," adjoining said plantation, would "be a cheap property" at the present time at \$15,000. This sum would be sufficient to pay off the prior incumbrance of \$6,700 upon the said land, and leave \$8,300 to be applied to the bond of Henry E. Lucas, in the possession of the Bank. The market value of the negroes mortgaged to secure the same bond has been set down at \$16,200. The bonds of Courtney and Simonton for \$3,400, are represented as good. The aggregate value of the above collateral securities are thus ascertained to be \$37,900. This sum deducted from the balance due upon the foreign bills of exchange (\$126,255 04) will leave \$88,355 04 to be paid out of the general estate of Mr. Lucas in the hands of his executors. Considering these bills as specialties

they are the only debts of this rank to be provided for in the future administration of the estate. In this I assume that the bond held by the administrator of the estate of Morris will be paid out of the negroes mortgaged to secure it.

3. The third claim is submitted on behalf of the widow for her *dower*.

Thomas Bennett Lucas died seized of the following real estate, which has been sold by his executors:

West Point Mills, sold for.....	\$97,000
Dwelling-house, " .....	25,000
Lot on Commercial wharf, sold for.....	1,825
Lot corner of Palmetto st., " .....	1,130
 In all.....	 \$124,955

The West Point Mills, together with thirty-six negroes and a schooner called the Hettiwan, was subject, at the time of the death of Mr. Lucas, to a mortgage securing three bonds, given for the purchase money, amounting to \$65,507 66. The land embraced in the said mortgage was sold by the executors, as above stated, for \$97,000. The thirty-six negroes and schooner were sold by them (as appears by Schedule D) for \$31,322. A rateable apportionment of the mortgage debt between the real and personal property embraced in the mortgage, according to their respective values, will give a charge upon the land of \$49,518 70, and upon the negroes and schooner of \$15,988 96. The dwelling-house lot was subject to the lien of a mortgage securing a bond for \$11,112 50 given for the purchase money. Upon the lot on Commercial wharf and the lot on Palmetto street there were no special incumbrances. The bonds secured by the foregoing mortgages have all been paid by the executors, from the proceeds of the sales of the realty and personality. The estate, while not sufficient to pay all the debts of the testator, is sufficient to pay all the specialty debts, including the for-

sign bills of exchange claimed to rank as such. The widow claims compensation for her dower out of the assets still remaining in the hands of the executors.

The case of *Wilson vs. McConnell*, 9 Rich. Eq. R., 504, furnishes the rule for the assessment of the dower in this case. In the former case it was held that a husband dying insolvent, his widow is entitled to have the proceeds of the sales of his personal estate applied to the payment rateably of bond debts secured by mortgages of land with other specialty demands, and that the proceeds of the real estate subject to dower should be resorted to only for the deficiency in the personal assets, so applied, to satisfy the mortgage liens upon the land.

In applying these principles to the present case, it is necessary first to ascertain the value of the personal estate of the testator. This cannot now be directly arrived at. The executors have received considerable sums of money from the proceeds of the mill during the time it was worked by them; also from the hire of negroes and from the collection of debts due to the estate. These receipts are included in the general accounts of the executors, which embrace all their transactions with the estate, and cannot be readily distinguished and separated. The value of the personal estate may, however, be ascertained indirectly, but with almost certainty, by deducting from the gross sum of the cash receipts of the executors and the uncollected assets still in their hands, the disbursements on account of the mill, the expenses of administration and the sales of the real estate. The surplus will be the amount of the personal estate subject to the payment of debts.

The cash received by the executors from all

sources, as appears by their accounts, was... \$310,028 69  
Add the amount of the uncollected assets in their

hands ..... 27,326 64

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And the gross value of the entire estate is obtained, viz ..... \$337,355 33

Then deduct the disbursements on account of the mill and the ex- penses of administration .....	\$55,188 27
Also, the proceeds of the sales of the real estate.....	\$124,955 00—180,143 27

And the difference.....\$157,212 06  
is the amount of the personal estate. This, as the primary  
fund for the payment of debts, would be first applicable,  
according to the case of *Wilson vs. McConnell*, to the pay-  
ment rateably of all the specialty demands, including debts  
secured by mortgage of the land. But in the case before  
me, there are bond debts, secured by mortgage of the per-  
sonalty. In this respect, the present case differs from *Wil-  
son vs. McConnell*. Here the widow's equity to compel  
the creditors secured by mortgage of the land, upon which  
she has a lien, to resort to the personalty for payment, is  
met by a corresponding equity on the part of creditors who  
have a specific lien on the personalty. It seems to me that  
creditors of this class are entitled to priority of payment  
out of the proceeds of the sale of the personalty mort-  
gaged for their security. I have therefore deducted from  
the amount of the personal estate as above ascertained,  
viz:.....\$157,212 06

The following debts, secured by mortgages  
of personal property sold by the executors:

3 bonds to Rosa Lucas, Julius Lucas and Lucy Lucas, secured by mort- gage of the West Point Mill, thirty-six negroes and a schooner. Rateable apportionment of debt to negroes and schooner .....	\$15,988 96
Bond to Augustus Lucas, secured by mortgage of negroes.....	18,601 24
Bond to I. Ball, guardian, secured by mortgage of negroes.....	17,552 39
Bond to R. DeTreville, secured by mortgage of negroes.....	23,929 44
In all .....	76,072 03
Leaving.....	\$81,140 03

to be applied to the payment rateably of the mortgages on the land and the unsecured specialty debts, viz:	
Proportion of bonds to Rosa, Julius and Lucy	
Lucas, secured by mortgage of West Point	
Mill lands.....	\$49,518 70
Bond to M. M. Lucas, secured by mortgage of dwelling-house lands.....	11,112 50
	<hr/>
	\$60,631 20
Bond to P. J. Barbot, unsecured.....	2,626 88
	<hr/>
	\$63,258 08
Foreign bills of exchange ranked as specialties.	88,355 04
	<hr/>
	\$151,613 12

The amount of the personality (\$81,140 03) applicable to the payment of the debts last enumerated (\$151,613 12) is a fraction under  $5\frac{1}{2}$  per cent. of the said debts. The amount to be applied to the bonds secured by mortgages on the land (\$60,631 20) is \$32,437 69. This will leave a deficiency of personality to pay said mortgage debts of \$28,193 51, and this deficiency is a charge upon the mortgaged lands. These lands were sold by the executors for \$122,000. The surplus remaining after providing for the above deficiency is \$93,806 49; and this sum added to the sales of the lands not mortgaged, viz: lot on Commercial wharf, \$1,825, and lot on Palmetto street, \$1,130—\$2,955, will give the value of the real estate \$96,761 49—to one-sixth of which, \$16,126 91 $\frac{1}{2}$ , the widow is entitled for her dower, and I so find. An account of the particulars of the foregoing statement marked E, is filed with this report.

It is proper here to state that the solicitors of the widow, under her written instructions, waive her claim for dower out of such portions of the real estate of her husband as her children may be held entitled to under the will of their grandfather, Jonathan Lucas.

4. *Claim of Children.* It is submitted that under the will of Jonathan Lucas, his grandchildren, the children of

T. Bennett Lucas, are entitled to the share which their father took under the said will. And that the said share having been received by T. Bennett Lucas, in land and negroes, which were sold after his death, the proceeds of said sale are subject *pro tanto* to a lien for the claim of the said children, under the limitations of the will of their grandfather, Jonathan Lucas.

Jonathan Lucas died in May, 1848, leaving a will dated the 25th August, 1847, whereby he devised all his estate to his executors and their survivors, in trust, to manage and conduct his mill and planting establishments until all his children should marry or attain twenty-one years of age, or until his last surviving minor child should depart this life; and directing that, in the mean time, his executors should apply the net income of the estate to the payment of his debts and to the support and education of his children who may be unmarried and under twenty-one years of age; and, also, to the support and education of the child or children of any of his children already dead, or who might thereafter die before the time appointed for the division of his estate. The testator then provides for the division of the estate, as follows:

“2. When all my children shall have married, or attained twenty-one years of age, or when my last surviving minor child shall depart this life under twenty-one, in case that should happen to occur, then my executors shall divide and apportion all my estate, as it shall then stand, in equal parts among all my children who shall be living when the last of my minor children surviving each other shall marry or attain twenty-one years of age, or shall happen to die before attaining such age. But grandchildren shall be substituted in the place of any parent who is now dead or who may hereafter die, and shall take respectively the share which the parent, if living, would have taken. And my executors shall take care that the share of each daughter, or of a substituted granddaughter, shall be settled to her sole use, free from the debt or engagements of any husband she may marry.

“3. I expressly subject each and every share given as aforesaid to the following limitations, that is to say, in case any of my children shall die without leaving issue living at the time of its decease, or in case such issue of any child shall die unmarried and under twenty-one years of age, the share of such child shall revert to my estate, and be equally divided among my other children, living at the happening of such contingency; or in case of the death of any child having issue alive at the happening of such contingency, such issue to represent the deceased parent, and to be entitled to take a share in common with the other children. And the same rules shall apply to every accruing or survived share as to the original one. And all these limitations and conditions shall apply as well to the share of my daughter who has already died and has left issue, as also to any others of my children who may die, either before or after me.”

The testator then appoints his executors guardians of his minor children, with directions that their maintenance and education be borne by his general estate.

The fourth and fifth clauses of the will are as follows :

“4. I authorize my executors, from time to time, to make advancements to my children to an extent not exceeding the presumptive share of each, and to deliver the possession and control of the same to any child at any time they, the said executors, shall see fit. Such advancements, however, together with all which may have been made by myself, shall be charged against the shares of each child to whom the same may have been made, and shall constitute a part thereof in the final division.

The advancements which may be made to any daughter shall be settled in manner already declared; and I expressly exonerate my executors from liability for any waste or loss which may accrue to any advancement or share delivered in pursuance of this, my will. And I also declare, that they are to be indemnified by my estate for every liability, loss or expense incurred, and shall be held accountable for

no errors of judgment in their conduct as executors and trustees.

"5. I authorize and empower my executors to sell and convey any portion of my estate which they may deem expedient, either for the purpose of paying debts or making a division, or in the conduct or management of the business. And if in their opinion circumstances should require a division of my estate, in whole or in part, before the period which I have named, I fully authorize my executors to make such division, and to deliver the property into the hands of the legatees and devisees—such property, however, to remain subject in their hands to the limitations already declared."

A copy of the entire will is filed with this report.

The estate devised by the testator to each of his children is clearly a vested estate, subject to be divested by death before the youngest child marries or attains twenty-one years of age, with remainder over to the children of such deceased child limited, as in the prior devise, on their living at the time when the estate should become absolute and indefeasible, *i. e.*, when the youngest surviving child of testator should marry or attain the age of twenty-one.

Thomas Bennett Lucas, one of the children of Jonathan Lucas, died in 1859, leaving four children, all of whom are minors. Two of the surviving children of Jonathan Lucas, Augustus and Lucy, are yet under twenty-one years of age, and unmarried. Under these circumstances, it is conceded, I believe, that the children of Thomas Bennett Lucas would be entitled to the estate devised to them, unless the event upon which the estate was to become absolute and indefeasible happened in the lifetime of their father, the prior devisee. And this event it is contended is not the marriage or majority of the youngest child of the testator, as I have assumed, but the period of the division of the estate, which division the evidence shows was made during the life of Thomas Bennett Lucas.

The intention of the testator that no final and absolute

division of his estate should take place before his youngest child married or arrived at full age, seems to me to be clear. This intention is apparent from the directions given in the will for the management of the estate by the executors, and for the appropriation by them of the income until that period: also, by the provision made for the maintenance and education of the testator's minor children and grandchildren out of his *general* estate; also, by the exoneration of the executors from liability for any waste or loss which might accrue to any share advanced by them before the period of division fixed by the will, and lastly, by the explicit limitations of the will itself. It is true that authority is given to the executors to make a division of the estate before the youngest child marries or attains full age. But this authority is coupled with an express declaration that the property in that event shall remain in the hands of the legatees and devisees subject to the limitations of the will. And so it seems to have been held upon a bill filed by the executors in 1855, asking, among other things, for the instruction of the Court upon the construction of this will, as to their duty to reserve a fund for the support and education of the minor children and grandchildren of the testator. A division of the estate was then made, or was about to be made, under the authority given to the executors by the will. The Chancellor who heard the case held "that provision must be made for the support and education of the minor children of the testator *at the general expense of the whole* in any scheme of division which may be adopted." This decision was appealed from on the ground that the division of the whole estate during the minority of the children or grandchildren was left by the testator to the discretion of his executors, whose decision to divide the estate concluded the question, and necessarily cast the support and education of the minors upon their respective portions only. The objection now urged to the claim of the children is substantially the same. It is now, as then, insisted that the whole scheme of the will is based upon the discretion of the executors to fix the period of

division, and that the rights of all parties under the will are to be fixed and determined by that discretion. The Court of Appeals affirmed the decree of the Chancellor upon the case then made; and although the question now under consideration was not then immediately before the Court, its determination is necessarily involved, as it seems to me, in the decision then made, that the rights of the children and grandchildren to maintenance and education out of the general estate, were not to be affected by the exercise of the discretion of the executors in fixing a period for distribution anterior to that fixed by the will. If the exercise of that discretion could not deprive the grandchildren of their interest in the income of the estate, much less can that discretion destroy their interest in the estate itself. And the authorities seem to be clear, that if a trust in favor of certain objects be once expressly created, a discretionary power in the trustees, however ample, will not do away with the effect of the trust previously declared.

The rights of the children under the will of their grandfather being ascertained, the next inquiry is, whether the share of the estate which went into the possession of their father upon the division made in 1853, can now be traced and distinguished, so as to enure to the benefit of the said children to the exclusion of the creditors of Thomas Bennett Lucas. In my report of the 7th March, 1860, the evidence then taken upon this point was submitted. For convenience of reference this evidence, together with such facts as have subsequently been brought to my attention, are embraced in the following statement:

The executors of the will of Jonathan Lucas, upon the request of the adult children, and with the concurrence of their own judgment, proceeded, in 1853, to sell the estate of their testator for the purpose of making a division. On the 12th July, 1853, Thomas Bennett Lucas, the eldest son of the testator, purchased the West Point Mills establishment, with thirty-six negroes and a schooner, for \$108,000, payable in cash and bonds. In payment of the cash, the

executors received from him \$25,000, which was raised by his giving to the executors the following receipt :

“Charleston, July 12th, 1853. Received from William Lucas, C. G. Memminger, and W. J. Bennett, Executors of Jonathan Lucas, twenty-five thousand dollars, on account of my share of the Estate of said Jonathan Lucas, to be adjusted upon the final division thereof.

“T. B. LUCAS.

“In the presence of JAMES B. CAMPBELL.”

The executors thereupon made the following entries in their accounts. On the debit side they charge, “Thomas B. Lucas, paid him on account of his share of estate, \$25,000.” And on the credit side, they credit the estate as “received from T. B. Lucas, on account sales of West Point Mills, \$25,000.”

For the balance of the purchase, T. B. Lucas executed to the executors three bonds, in the sum of \$21,000 each, and one for \$20,000, secured by mortgage of the property sold.

The property was all delivered up to T. B. Lucas as purchaser; and the bonds remained in hands of the executors with the proceeds of sales of the other property of the testator.

In June, 1853, under proceedings in the Court of Chancery, a partition of the whole estate was made, and by the Master’s (Mr. Gray) report, the whole estate was adjusted. By that report, it was ascertained that Thomas Bennett Lucas was entitled to a further sum of \$2,400 44, which, under the decree of the Court, was paid over to him by the executors on the 1st June, 1855, in full of his share; and the following receipt was taken from him :

“Charleston, July 9th, 1855. Received from C. G. Memminger, Executor of the Estate Jonathan Lucas, two thousand four hundred dollars 44 cents, being the balance of my share of the estate, as per decree of the Court of Equity.

“T. B. LUCAS.

“\$2,400 44.”

This payment by the executor was made by setting off the amount against the interest due on certain bonds of T. Bennett Lucas, given for the purchase of property from the estate of Jonathan Lucas, viz :

- \$1,009 94. Interest written off from bond for \$10,500, given for purchase of dwelling-house.
- \$1,093 93. Interest written off from bond for \$17,605, given for negroes not embraced in the West Point Mill purchase.
- \$ 269 57. Interest written off from one of the four bonds given for the purchase of the "West Point establishment."

In the June term, 1856, the Master (Mr. Gray) reported that the above sum of \$2,400 44 had been paid over to T. Bennett Lucas by the executors, and that they had fully administered the estate and accounted for the same.

The bonds given by T. Bennett Lucas for the several purchases made by him were assigned under the decree of the Court to pay the shares of the other devisees and legatees. That portion of the decree which relates to the present subject matter is as follows :

"On hearing the report of the Master, it is ordered that the same be confirmed, and that the complainants (the executors) do give the credits and assign the bonds, stocks and securities, and pay the cash balances to the several legatees who have attained the age of twenty-one years, according to the allotment contained in Schedule No. 6, filed with said report, etc.

"It is further ordered, that each of the adult defendants and the guardians of each of the infants, do contribute the sum of three hundred and ten dollars annually to a common fund for the support of the infants, as recommended in the report, to be paid to the Master in half yearly payments, in advance, on the first of every July and January, until otherwise ordered by the Court, etc."

All the bonds given by T. Bennett Lucas for his purchases from the estate of Jonathan Lucas have been paid and the mortgages satisfied. Of the four bonds given for

the "West Point establishment" one was paid in the life-time of Mr. Lucas, and the remaining three by his executors since his death. Mr. Lucas died in possession of all the land and negroes referred to in the foregoing statement.

It will be convenient to consider, first, the claim of the children in respect to the \$25,000, for which a receipt was given by Mr. Lucas to the executors on the 12th July, 1853. It is clear that no money passed between the parties. Mr. Lucas was the purchaser of the Mill establishment for \$108,000. Against this purchase was discounted his "presumptive share" in the estate (\$25,000), and the payment of the balance of the purchase money was secured by four bonds for \$83,000, secured by a mortgage of the land, negroes and schooner conveyed to him by the executors. To the extent of \$25,000, he received his share in property. The entries made by the executors in their accounts with the estate indicate upon their face that they received \$25,000 from Mr. Lucas for the cash portion of said purchase, and that they immediately paid to Mr. Lucas a like sum on account of his share in the estate. But this is merely a mode of statement adopted by the executors in recording their transactions with the estate, and does not avoid the fact that T. Bennett Lucas received the \$25,000 in property. Can the property be traced and distinguished so as to enure to the benefit of the children and postpone the claims of the general creditors of T. B. Lucas until the trusts of the will in favor of the children are discharged? I think it can. To the extent of the \$25,000 Mr. Lucas received his share in *specie*. In land, negroes and a schooner which were in his possession when he died, and which were sold by his executors, and the proceeds accounted for by them.

If the executors of Jonathan Lucas, in the division of that estate, had delivered to T. B. Lucas, as his distributive share, certain lands and negroes, valued at \$25,000, and received an acknowledgment from him in which the property was described, it can scarcely be doubted that he would have taken the property subject to the limitations of the

will; and if after his death the same property had passed into the hands of his executors, it is equally clear that the estate of the children, in the said property under their grandfather's will, would have vested to the exclusion of all others. The only circumstance which creates doubt is the fact that the property which T. B. Lucas received, on account of his share in the estate, was mixed with other property of which he became possessed by purchase from the same estate. And here, I think, the weight of authority is in favor of the equitable lien of the children, as against the general creditors of their father, who are the only parties whose interests are prejudiced by said lien. Whether T. Bennett Lucas be regarded as a trustee, under the fifth clause of Jonathan Lucas' will, or as a *bona fide* purchaser with notice of the trust, the same rule applies that trust property may be followed whenever it is of a tangible nature, and it is *immaterial that the trust property is blended with other property of the same nature, belonging beneficially to the trustee or purchaser with notice.* Hill on Trustees, 531 and notes. Price *vs.* Blackmore, 6 Beav.,\*507. The title from the executors of Jonathan Lucas to T. Bennett Lucas conveys an absolute fee, and does not refer to the trusts of the will. It is possible that the creditors of T. B. Lucas may have been thereby misled (as it is argued) in their estimate of his property; but the fact that the conveyance is made by executors would seem to be sufficient to put creditors on the inquiry as to their title. Be this however as it may, the rule, as above stated, appears, so far as general creditors are concerned, to be inflexible. Under all the circumstances, I am of opinion that the claim of the children of T. Bennett Lucas, to the extent of \$25,000, must be regarded as a specific lien upon the West Point land, negroes and schooner, and that they are entitled to priority of payment out of the proceeds of sale of that property.

In addition to the \$25,000 received by Mr. Lucas from the estate of his father, the testimony shows that he subsequently received from the executors the sum of \$2,400 44, in full of his share in the estate, making the value of the

entire share \$27,400 44. As to this last receipt of \$2,400 44, I have not been able to attain the same conclusion as in the matter of the \$25,000. That the \$2,400 44 originally formed a part of the share in the estate of Jonathan Lucas, which, at the death of T. Bennett Lucas, vested in his children, I have no doubt. But it did not remain in specie, nor was it ever invested in other property. It was applied by the executors to the payment of interest due upon the bonds of T. B. Lucas, given for the credit portion of his purchases from the estate. And the entire amount, except \$296 57, was written off from bonds given for property not embraced in the West Point Mill purchase. All the bonds, to the interest of which the said sum of \$2,400 44 was applied, were assigned to the other devisees and legatees in settlement of their respective shares. The interest accruing on these bonds was a debt to them, not for the purchase money of the property of which their shares originally consisted, but as the consideration for the indulgence granted in the credit allowed to the purchaser. Mr. Lucas had the use of the purchase money, and, as an equivalent, the parties entitled to said money received as interest the balance coming to him from the estate on a final settlement. It is not perceived how such an appropriation of a portion of his share can be identified with the property purchased by him any more than if, before the final settlement, Mr. Lucas had enjoyed the possession, by hire, of property subsequently purchased by him, and a portion of his share in the estate had been paid to the other devisees and distributees as an equivalent for the use and occupation. It is a case of "waste or loss," in the hands of the prior devisee, referred to in the fourth section of the testator's will, for which the executors are exonerated from liability. But while I do not see that any part of the estate of T. Bennett Lucas is so specifically affected by this application of a portion of his share in the estate of Jonathan Lucas, as to be liable to the claim of the children now before the Court, it is clear to my mind that the \$2,400 44 having been appropriated to a personal obligation of their father, his general estate should be held liable for it, and this being insolvent,

the children are entitled to come in *pari passu* with the other creditors and prove against the estate the amount so due to them. And I so find.

As already stated, the widow postpones her claim for dower out of so much of the land as may be held subject to the claim of her children. This renders necessary an apportionment of their claim for \$25,000, hereinbefore allowed as distinguishable from the property of the general estate of T. Bennett Lucas, between the realty and personalty in which the said sum was received. The West Point lands, as previously shown, were sold for \$97,000. The thirty-six negroes and the schooner Hettiwan, for \$31,322. A rateable apportionment of \$25,000 between these sums, results in a charge upon the land of nineteen and a half per cent., or \$18,915. One-sixth of this sum, or \$3,152 50, must, therefore, be discounted against the amount hereinbefore assessed for the widow's dower.

5. The *simple contract* demands, presented and proved under the call for creditors in this case, are set forth in the schedule marked F. Including the claim of the children ranked in this class, these debts amount to \$172,845 35. If the findings of this report, as to the claims entitled to priority of payment, are sustained by the Court, the surplus applicable to the simple contract debts will be \$16,507 50, or a fraction over nine and a half per cent. of said debts. The following statement will exhibit this result:

Debts ranked as specialty .....	\$88,355 04
Dower of widow .....	\$16,126 91
Less postponed to claim of children..	3,152 50
	—————
Claim of children, specific lien.....	\$12,974 41
Simple contract demands, \$172,845 35—9 $\frac{1}{2}$ %	25,000 00
per cent.....	16,507 50
	—————

The total agreeing with the amount of assets in executor's hands. .... \$142,836 95 as hereinbefore reported.

Respectfully submitted,

JAMES TUPPER,  
*Master in Equity.*

September 3, 1861.

## TESTIMONY.

MASTER'S OFFICE, 26th November, 1860.

*Theodore Stoney*, sworn—says: Is one of executors of will of T. B. Lucas; the only outstanding bond of his testator unpaid is a bond of Wm. Whaley, administrator, for \$3,500, on which his testator was surety for J. B. Campbell, Esq. There is due to sundry banks on notes, \$105,050; Notes to individuals not in bank, \$8,136 87; Bills of exchange, claimed as specialty debt, \$141,885 67.

On this last sum \$40,000 has been paid from the policy of insurance on testator's life; the balance of last item is subject to further reduction by whatever may be received on certain collaterals in hands of parties claiming under said bills of exchange. There are, also, claims on open accounts by sundry creditors, amounting to \$48,719 94.

All the assets have been converted except a tract of land in St. Thomas' Parish of little value, and sundry outstanding accounts, amounting to about \$9,000; these are supposed to be good. The cash balance in executors' hands, as per account rendered, is \$90,510 31.

In addition to this sum, there is in the Savings Bank, deposited by executors to meet widow's claim of dower, \$25,000; of which \$4,500 was deposited on 12th December, 1859, and \$20,500 was deposited on 29th March, 1860.

(Signed)                    THEODORE STONEY,  
*Executor Estate of T. B. Lucas.*

MASTER'S OFFICE, 27th November, 1860.

*J. K. Sass*, sworn—says: Is President of the Bank of Charleston; certain drafts were drawn by T. B. Lucas, in his lifetime, on Thomas Scott, of New York, through the Bank of Charleston, the Planters' and Mechanics' Bank, the People's Bank, Bank of South Carolina, Union Bank, and Farmers' and Exchange Bank. These drafts amount in the aggregate to \$96,500; on this sum about \$39,000 has been paid from the proceeds of certain policies of life insu-

rance assigned by the said T. B. Lucas, the balance is secured by the following collaterals:

Bond of H. E. Lucas and interest, 15th October, 1858.....	\$31,500
36½ shares Cannonsboro' Mill and Wharf Company.	
1 bond of T. B. Lucas, S. G. Courtenay and C. H. Simonton.....	1,400
1 bond of T. B. Lucas, S. G. Courtenay and C. H. Simonton.....	2,000

These collaterals were assigned by Lucas to Scott, and by Scott turned over to witness to be collected and applied to the payment on the said drafts rateably among the said banks. The bond of H. E. Lucas, for \$31,500, is secured by a second mortgage of a plantation on North Santee—cannot say to what extent this is available.

The shares in the Cannonsboro' Mill and Wharf Company, he thinks, are worth about \$15,000. An offer was made by the President of the Company to pay \$10,000, and take the shares in full settlement of all demands between the estate of T. B. Lucas and said Company. This offer was not accepted.

The two bonds of Lucas, Courtenay and Simonton, are secured by a mortgage, and are supposed to be good.

Witness represents claims against the estate of T. B. Lucas, on drafts unsecured by collaterals, amounting to \$12,000. These are drafts on Wilbur & Price, of New York, and accepted by them.

The acceptors of these drafts have not paid them—they are under protest.

There are other drafts held by banks in the city which are not secured; does not know the amounts of these drafts, or by what banks they are held.

The Bank of Charleston holds claims on the estate of T. B. Lucas on promissory notes.

The bond of H. E. Lucas, for \$31,500 is secured by a mortgage of Crow Island, and an adjoining tract of one hundred acres, and by twenty-seven negroes. Witness thinks there is a prior mortgage incumbrance on the land, but not on the negroes.

(Signed)

J. K. SASS, *President.*

MASTER'S OFFICE, 2d February, 1861.

RAVENEL vs. LUCAS.

*M. P. Matthiessen*, sworn—says: The statement of the affairs of the assigned estate of Henry E. Lucas, marked A, is submitted by him as a correct abstract of the assets and liabilities of the said estate.

M. P. MATTHIESSEN,  
*Agent of Creditors.*

Sworn to before me, this 2d February, 1861.

JAMES TUPPER, *Master in Equity.*

*Statement of affairs of Henry E. Lucas, of North Santee.*

LIABILITIES.

Bond secured by first mortgage of Crow Island plantation, on North Santee river, to W. C. Heyward .....	\$6,733 00
Bond secured by first mortgage of Woodside plantation, on North Santee, and thirty-seven negroes to trustee of Mrs. Ewbank.....	6,871 95
Bond secured by second mortgage of Woodside plantation, on North Santee, and thirty-seven negroes to Miss Rosa Lucas.....	7,133 23
Bond to T. B. Lucas, secured by second mortgage on Crow Island.....	.....
First mortgage on Kinloch swamp.....	.....
First mortgage on twenty-six negroes.....	31,500 00
Bond to Wm. Hume, secured by mortgage of one negro.....	859 57
Interest due on above, about.....	4,000 00
Balance due Toney Weston.....	1,000 00
	-----
	\$58,097 75

ASSETS.

Crow Island plantation on North Santee river, with two hundred and fifty acres rice land

under bank, no high land—purchased four years since from Master in Equity, for	
\$10,000 .....	\$20,000 00
Woodside plantation on North Santee river, one hundred acres rice land under bank, two hundred and fifty high land .....	10,000 00
Seventy-five negroes, at \$600 .....	45,000 00
Kinloch swamp on Santee.....	500 00
Summer house on South Santee.....	500 00
	_____
	\$76,000 00
Assets .....	\$76,000 00
Liabilities.....	59,000 00
	_____
Surplus .....	\$17,000 00

*Jas. B. Campbell*, sworn—says: The bond of witness for \$3,500, now held by W. Whaley, adm'r, was given for the purchase money of ten slaves bought by witness from the estate of Geo. N. Morris, and said bond was secured by a mortgage of the said slaves and by the personal security of T. B. Lucas as a joint obligor of said bond; witness is in possession of the said negroes.

JAS. B. CAMPBELL.

Sworn to before me, this 4th Feb., 1861.

JAMES TUPPER, *Master in Equity*.

*Jas. B. Campbell*, sworn—says: Crow Island was sold by the Master for \$10,000; very soon after this sale it could have been resold for about \$15,000; Mr. Lucas put extensive improvements upon it; witness, from his confidential intercourse with Henry E. Lucas and T. Bennett Lucas, and his knowledge of the property, came to the conclusion that the property was worth, about two or two and a half years ago, \$25,000; witness has no doubt that it would be a cheap property now at \$15,000.

JAS. B. CAMPBELL.

Sworn to before me, this 26th April, 1861.

JAMES TUPPER, *Master in Equity*.

I think that the interest of the estate of T. B. Lucas, in the Cannonsboro' Wharf and Mill Company, subject to the claims upon the same, is worth from \$10,000 to \$12,000.

C. M. FURMAN.

26th November, 1860.

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TESTIMONY ON CLAIM OF J. B. CAMPBELL, Esq.

MASTER'S OFFICE, 1st May, 1861.

*P. J. Barbot*, sworn—says: The city bonds referred to in the executors' account with Mr. Campbell were delivered to Mr. Campbell on the 25th Sept., 1857.

*Cross-examined by Mr. Campbell.*—Understood that Mr. Campbell acted for Mr. Lucas as a friend; knows that Mr. Campbell was employed by Mr. T. B. Lucas to attend to business for H. E. Lucas, senior; knows that Mr. Campbell did business for Mr. T. B. Lucas for a long period; there were frequent and daily consultations; did a good deal; remembers that Mr. Campbell acted for Mr. Lucas in the purchase of the West Point Mill property, but understood from Mr. Lucas that Mr. Campbell was acting for him as a friend; that he was under some obligation; Mr. Campbell acted for Mr. Lucas in all his transactions.

(Mem. check of T. B. Lucas, for \$7,050, dated 12th September, 1857, put in evidence by Mr. Campbell, with sundry endorsements.)

(Letter of J. B. Campbell to Mr. Lucas, put in evidence by Mr. Jersey.)

Sworn to before me, this 1st May, 1861.

JAMES TUPPER, *Master in Equity.*

*G. W. Dingle*, sworn: The title deeds and mortgages referred to in Mr. Campbell's bill against Henry E. Lucas, senior, was prepared by Mr. Campbell; Mr. T. Bennett Lucas was frequently in the office of Mr. Campbell; Mr.

Campbell attended to some case for Mr. Lucas, in which Henry Willis was a party; also a case about damaged rice.

Sworn to before me, this 1st May, 1861.

JAMES TUPPER, *Master in Equity.*

*Henry Buist, Esq.*, sworn: Witness regards the *first item* in the bill of Mr. Campbell as reasonable; as to the *second item*, can say nothing; thinks \$200 a reasonable charge for preparing conveyances and examining title to property referred to in *second item*; thinks *fourth item* reasonable; the *fifth item* knows nothing about.

As for bill for services rendered for Henry E. Lucas, senior, says: First item, knows nothing; the other items are reasonable, except the last item, about which he knows nothing.

Sworn to before me, this 1st May, 1861.

JAMES TUPPER, *Master in Equity.*

*Jacob Cohen*, sworn—says: His charge as agent for negotiating the purchase of the West Point Mill establishment would be \$1,000. If there be extra labor and services an additional charge would be made; the minimum charge for the special service above referred to would be \$1,000.

JACOB COHEN.

Sworn to before me, this 2d May, 1861.

JAMES TUPPER, *Master in Equity.*

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AFFIDAVITS ANNEXED TO CLAIM OF J. B. CAMPBELL, Esq.

Personally appeared *J. B. Campbell*, Esq., and makes oath that the foregoing account is for services actually rendered, and that the charges for the same are fair and just—and that the other items are correct, subject to such discounts as may be established by the Estate of the late T. B. Lucas.

JAMES B. CAMPBELL.

Sworn to before me, this 30th April, 1861.

JAMES TUPPER, *Master in Equity.*

Additional affidavit of *Mr. Campbell*, who, being sworn—says, that

The foregoing is not, and does not, purport to be a full statement of his side of the account between himself and the late T. B. Lucas. The same was not filed by him as his claim in the Master's office, nor was it made up for that purpose. The circumstances under which said statement of account was made will be understood by the letter appended to it, and are as follows: The executors of Mr. Lucas made a claim upon Mr. Campbell and commenced suit thereon. Mr. Campbell thereupon made out the skeleton account above, selecting such items of services, etc., as were easily proved or known to Mr. Memminger, the attorney of the executors, and was submitted to him for the consideration of the executors whether it was worth while for them to press their suit, seeing that the balance would be against the estate if the items were charged at low rates. Messrs. Memminger, Jersey and Wilkinson, or the executors, placed the account and letter in the Master's office, and afterward Mr. Campbell, at the suggestion of the Master, added the amounts to each item which were previously left blank.

Mr. Campbell claims the right now to make proof of his claim, generally, not only for services but also for moneys due to him otherwise, and especially for the sum of about twelve hundred dollars, being Mr. Campbell's share of amount of negro hire and freight erroneously charged in account of Cannonsboro' Mill and paid by Mr. Campbell, but were admitted or allowed to be correct. The circumstances under which said payment and other payments were made, viz: the retention by Mr. Lucas of money in his hands, will appear in evidence.

JAMES B. CAMPBELL.

Sworn to before me, this 1st May, 1861.

JAMES TUPPER, *Master in Equity.*

## A.

[COPY OF WILL OF JONATHAN LUCAS.]

*State of South Carolina:*

I, Jonathan Lueas, of Charleston, do make and ordain this to be my last will and testament.

I give, devise, and bequeath, all my estate and property, of every kind, unto my executors, or such of them as shall qualify upon this my will, and to the survivors and survivor of them in trust, that they shall manage and conduct my mills and planting establishments by such fitting agents, and in such manner as they shall deem most for the advantage of my family, until all my children shall marry, or attain twenty-one years of age, or until my last surviving minor child shall depart this life; and in the meantime my said executors shall apply the net income to the payment of my debts, and to the support and education of my children who may be unmarried and under twenty-one years, and also to the support and education of the child or children of any of my children who have already died, or who may hereafter die before the time appointed for the division of my estate; the surplus income, if any, to be applied at the discretion of my executors to the advancement of my other children who are or may become adult, or to be invested and abide the final distribution of my estate.

2. When all my children shall have married, or attained twenty-one years of age, or when my last surviving minor child shall depart this life under twenty-one, in case that should happen to occur, then my executors shall divide and apportion all my estate, as it shall then stand, in equal parts among all my children who shall be living when the last of my minor children surviving each other shall marry or attain twenty-one years of age, or shall happen to die before attaining such age. But grandchildren shall be substituted in the place of any parent who is now dead or who may hereafter die, and shall take respectively the share

which the parent, if living, would have taken. And my executors shall take care that the share of each daughter, or of a substituted granddaughter, shall be settled to her sole use, free from the debt or engagements of any husband she may marry.

3. I expressly subject each and every share given as aforesaid to the following limitations: that is to say, in case any of my children shall die without leaving issue, living at the time of its decease, or in case such issue of any child shall die unmarried, and under twenty-years of age, the share of such child shall revert to my estate, and be equally divided among my other children, living at the happening of such contingency; or in case of the death of any child having issue alive at the happening of such contingency, such issue to represent the deceased parent, and to be entitled to take a share in common with the other children. And the same rules shall apply to every accruing or survived share, as to the original one. And all these limitations and conditions shall apply as well to the share of my daughter who has already died and has left issue, as also to any others of my children who may die, either before or after me.

3. I appoint my executors to be guardians of my minor children, authorizing them to expend upon their education whatever sums they may see fit. And inasmuch as my elder children have had the benefit of their education from my estate, the charges for the maintenance and education of my said minor children shall be borne by my general estate, and shall not be charged to the separate account of the children.

4. I authorize my executors, from time to time, to make advancements to my children to an extent not exceeding the presumptive share of each, and to deliver the possession and control of the same to any child at any time they, the said executors, shall see fit. Such advancements, however, together with all which may have been made by myself, shall be charged against the shares of each child to whom the same may have been made, and shall constitute a part thereof in the final division.

The advancements which may be made to any daughter shall be settled in manner already declared ; and I expressly exonerate my executors from liability for any waste or loss which may accrue to any advancement or share delivered in pursuance of this, my will. And, I also declare, that they are to be indemnified by my estate for every liability, loss or expense incurred, and shall be held accountable for no errors of judgment in their conduct as executors and trustees.

5. I authorize and empower my executors to sell and convey any portion of my estate which they may deem expedient, either for the purpose of paying debts or making a division, or in the conduct or management of the business. And if in their opinion circumstances should require a division of my estate, in whole or in part, before the period which I have named, I fully authorize my executors to make such division, and to deliver the property into the hands of the legatees and devisees—such property, however, to remain subject in their hands to the limitations already declared.

6. It is my desire that my Middleburg plantation and negroes, with appurtenances, should, if possible, be kept in my family. I therefore authorize and empower my executors to sell and assign the same to some one of my children, such as the said executors shall deem best; and in order to enable such child to pay for the same, the executors shall fix upon the property what they consider a fair price, and may make the terms of the sale such as they may deem most advisable to effect the object in view. And they shall be authorized to assign to any other of the children in part or in entire satisfaction of their shares, as the same may reach, so much of bonds or securities, taken for the purchase, as they may deem expedient.

7. I appoint my friend William Lucas, C. G. Memminger and W. J. Bennett, to be executors of this, my will, and I authorize a majority of those of them who may qualify and be alive to do all the acts which my executors are hereinbefore authorized to do ; and if there be but one,

then I authorize that one : and I do hereby revoke all other wills by me at any time made.

Witness my hand and seal, at Charleston, this 25th August, in the year of our Lord one thousand eight hundred and forty-seven. Signed, sealed, published and decreed by the said Jonathan Lucas, }  
as and for his last will and testament, } **JOHN LUCAS.**  
in the presence of us, the undersigned witnesses, who,  
at his request, in his presence and in the presence of  
each other, have hereunto subscribed our names the  
day and year above written.

MIC'K JOHNSTON.  
ELIAS S. BENNETT.  
BENJ. W. PURSE.

Proved before M. T. Mendenhall, Esq., Ordinary for Charleston District, 19th May, A. D., 1848; and on 23d June, A. D., 1848, William Lucas, C. G. Memminger and W. J. Bennett, Esqs., qualified as executors thereof.

*Ordinary's Office, Charleston District, May, A. D., 1849.*

## EXHIBITS.

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### B.

#### *Assets of Estate of THOMAS BENNETT LUCAS.*

Cash balance in hands of executors	
19th May, 1860.....	\$90,510 31
Cash deposited in Savings Institution, 12th December, 1859.....	\$4,500 00
Cash deposited in Savings Institution, 29th March, 1860.....	20,500 00
	115,510 31
Bond of Edward S. Lueas, 22d November, 1859.....	\$13,000 00
Bond of J. K. Bevin and H. Bulwinkle, 13th March, 1860.....	144 00
Bond of John Shendan and John Blake, 13th March, 1860.....	654 00
Bond of J. H. Behling, 29th March, 1860 .....	754 00
Bond of J. R. and W. C. Dukes, 27th March, 1860.....	2,287 00
Bond of C. A. and R. G. Chisolm, 13th March, 1860.....	834 00
Bond of J. R. Baker and W. S. Elliott, 13th March, 1860.....	467 00
	18,140 00
Account of Simmons Lucas, Sr.....	\$3,350 70
"    H. E. Lucas, Sr.....	4,863 60
"    B. J. Johnson.....	122 16
"    Simmons Lucas, Jr....	360 35
"    Thomas M. Wagner....	489 83
	9,186 64
	-----
	\$142,836 95

## C.

*Liabilities of Estate of T. B. LUCAS.*

## BOND

Of James B. Campbell and Thomas Bennett Lucas, conditioned for the payment to William Whaley, administrator of Dr. G. W. Morris, of \$3,500, in five equal annual instalments with interest, payable annually upon the whole amount unpaid. Bond dated 20th January, 1858; interest paid to 1st March, 1859.

Amount of bond.....	\$3,500 00
1860.	

March 1, one year's interest due this date.....	245 00
	<hr/>
	3,745 00

1861.

March 1, one year's interest on \$3,745.....	262 15
	<hr/>
	4,007 15
April 1, one month's interest on \$4,007.15.....	23 37
	<hr/>
	\$4,030 52

## FOREIGN BILLS OF EXCHANGE

Rendered against estate of Thomas Bennett Lucas, deceased, and claimed to be specialty debts—interest computed to 1st April, 1861:

## ACCEPTANCES OF WILBUR &amp; PRICE.

1859.

Oct. 24.—*Bank of Charleston*:

	Draft .....	\$5,500 00	
	Protest.....	85	
	Interest .....	534 77	
		—————	\$6,035 62
Dec. 8.—	<i>Do.</i> Draft .....	6,500 00	
	Protest.....	85	
	Interest .....	584 65	
		—————	7,085 50
	Damages.....	1,200 00	
		—————	\$14,321 12

Oct. 15.—*Union Bank*:

	Draft .....	6,500 81	
	Interest .....	663 26	
		—————	7,164 07
Nov. 29.—	<i>Do.</i> Draft .....	1,400 00	
	Interest .....	131 02	
		—————	1,531 02
	Damages.....	790 08	
		—————	9,485 17

Dec. 16.—*State Bank*:

	Draft .....	6,000 00	
	Interest .....	540 82	
		—————	6,540 82
	Damages.....	600 00	
		—————	7,140 82

Nov. 26.—*Farmers' and Exchange Bank*:

	Draft .....	6,600 00	
	Interest .....	620 22	
		—————	7,220 22
	Damages.....	660 00	
		—————	7,880 22

" 1.—*Planters' and Mechanics' Bank*:

	Draft .....	3,000 00	
	Interest .....	296 88	
		—————	3,296 88
	Damages.....	300 00	
		—————	3,596 88

Carried forward.....\$42,424 21

Brought forward.....	\$42,424 21
Oct. 24.— <i>Bank of South Carolina</i> :	
Draft .....	4,500 00
Interest .....	452 37
	4,952 37
Damages.....	450 00
	5,402 37
Nov. 1.— <i>Conner &amp; Co.</i> :	
Draft .....	3,000 00
Interest .....	296 88
	3,296 88
Damages.....	300 00
	3,596 88
	_____
	\$51,423 46

## ACCEPTANCES OF THOMAS SCOTT.

1859.

Oct. 28.— <i>Bank of Charleston</i> :	
Draft .....	\$2,600 00
Int. to 28th Nov.....	15 46
	2,615 46
Then paid .....	520 00
	2,095 46
Int. to 16th Jan., '60...	19 70
	2,115 16
Then paid .....	260 00
	1,855 16
Int. to 28th Feb.....	15 30
	1,870 46
Then paid .....	260 00
	1,610 46
Int. to 1st April, '61...	122 88
	1,733 34
Nov. 9.— Do. Draft .....	3,800 00
Int. to 28th Nov.....	13 85
	3,813 85
Then paid .....	760 00
Carried forward.....	3,053 85
	1,733 34

Brought forward. ....	3,053 85	1,733 34
Int. to 16th Jan., '60. .	28 68	
	3,082 53	
Then paid. ....	380 00	
	2,702 53	
Int. to 28th Feb. ....	22 28	
	2,724 81	
Then paid. ....	380 00	
	2,344 81	
Int. to 1st April, '61. .	178 92	
	2,523 73	

Nov. 11.—*Bank of Charleston:*

Draft. ....	4,900 00	
Int. to 28th Nov. ....	15 98	
	4,915 98	
Then paid. ....	980 00	
	3,935 98	
Int. to 16th Jan., '60. .	46 05	
	3,982 03	
Then paid. ....	490 00	
	3,492 03	
Int. to 28th Feb., '60. .	28 83	
	3,520 86	
Then paid. ....	490 00	
	3,030 86	
Int. to 1st April, '61. .	231 28	
	3,262 14	

1859.

Nov. 15.— Do. Draft. ....	2,500 00	
Int. to 28th Nov. ....	6 23	
	2,506 23	
Then paid. ....	500 00	
	2,006 23	
Int. to 16th Jan., '60. .	18 85	
Carried forward. ....	2,025 08	7,519 21

Brought forward.....	2,025 08	7,519 21
Then paid.....	250 00	
	1,775 08	
Int. to 28th Feb.....	14 64	
	1,789 72	
Then paid.....	250 00	
	1,439 72	
Int. to 1st April, '61..	109 83	
	1,549 55	

Nov. 18.—*Bank of Charleston*:

Draft .....	6,900 00	
Int. to 28th Nov.....	13 23	
	6,913 23	
Then paid.....	1,380 00	
	5,533 23	
Int. to 16th Jan., '60..	52 00	
	5,585 23	
Then paid .....	690 00	
	4,895 23	
Int. to 28th Feb.....	40 35	
	4,935 58	
Then paid.....	690 00	
	4,245 58	
Int. to 1st April, '61..	324 02	
	4,569 60	

Dec. 8.—	Do.	Draft .....	5,800 00	
		Int. on \$1,160, amount rec'd 28th Nov., '59	11 13	
			5,788 87	
		Paid Nov. 28th, '59..	1,160 00	
			4,628 87	
		Int. to 16th Jan., '60..	34 62	
			4,663 49	
		Then paid .....	580 00	
			4,083 49	
		Int. to 28th Feb.....	25 85	
			4,109 34	13,638 36
		Carried forward.....		

Brought forward.....	4,109 34	13,638 36
Then paid.....	580 00	
	<hr/>	
	3,529 34	
Int. to 1st April, '61..	269 37	
	<hr/>	
	3,798 71	
	<hr/>	
	17,437 07	
Damages.....	2,650 00	
	<hr/>	
	20,087 07	

1859.

Oct. 28.—*Union Bank*:

Draft .....	5,000 00	
Int. to 29th Nov.....	29 73	
	<hr/>	
	5,029 73	
Then paid.....	950 00	
	<hr/>	
	4,079 73	
Int. to 18th Jan., '60.	39 12	
	<hr/>	
	4,118 85	
Then paid.....	475 00	
	<hr/>	
	3,643 85	
Int. to 28th Feb.....	28 65	
	<hr/>	
	3,672 50	
Then paid.....	475 00	
	<hr/>	
	3,197 50	
Int. to 1st April, '61..	243 44	
	<hr/>	
	3,440 94	

Nov. 12.— Do.	Draft .....	4,500 00
	Int. to 29th Nov.....	14 67
	<hr/>	
	4,514 67	
	Then paid.....	950 00
	<hr/>	
	3,564 67	
	Int. to 18th Jan., '60.	34 18
	<hr/>	
	3,600 85	
	Then paid.....	475 00
	<hr/>	
	Carried forward.....	\$3,125 85
		<hr/>
		3,440 94
		<hr/>
		20,087 07

Brought forward.....	3,125	85	3,440	94	20,087	07
Int. to 28th Feb., '60.	24	57				
	3,150	42				
Then paid.....	475	00				
	2,675	42				
Int. to 1st April, '61..	203	29				
	2,878	71				
	6,319	65				
Damages.....	950	00				
	7,269	65				

1859.

Oct. 20.—*Bank of South Carolina*:

Draft.....	6,500	00				
Int. to 28th Nov.....	48	61				
	6,548	61				
Then paid.....	3,500	00				
	3,048	61				
Int. to 18th Jan., '60..	29	81				
	3,078	42				
Then paid.....	1,750	00				
	1,328	42				
Int. to 1st April, '61..	111	30				
	1,439	72				
" 28.— Do.	Draft.....	3,000	00			
	Int. to 20th Feb., '60..	66	16			
	3,066	16				
Then paid.....	1,750	00				
	1,316	16				
Int. to 1st April, '61..	101	97				
	1,418	13				
Nov. 7.— Do.	Draft.....	3,600	00			
	Interest.....	351	42			
	3,951	42				
" 18.— Do.	Draft.....	4,400	00			
	Interest.....	420	23			
	4,820	23				
	11,629	50				
Damages.....	1,750	00				
	13,379	50				
Carried forward.....	40,736	22				

	Brought forward.....	40,736 22
Nov. 19.— <i>Conner &amp; Co.:</i>		
	Draft.....	3,000 00
	Interest.....	285 94
		3,285 94
	Damages.....	300 00
		3,585 94
		44,322 16
1859.		
Oct. 20.— <i>Farmers' and Exchange Bank:</i>		
	Draft.....	4,000 00
	Int. to 28th Nov.....	29 92
		4,029 92
	Then paid.....	3,760 00
		269 92
	Int. to 1st April, '61..	25 25
		295 17
" 28.— Do.	Draft .....	2,300 00
	Int. to 18th Jan., '60..	36 17
		2,336 17
	Then paid .....	1,880 00
		456 17
	Int. to 1st April, '61..	38 22
		494 39
Nov. 7.— Do.	Draft.....	3,400 00
	Int. to 28th Feb., '60..	73 68
		3,473 68
	Then paid.....	1,880 00
		1,593 68
	Int. to 1st April, '61..	120 45
		1,714 13
" 11.— Do.	Draft.....	5,100 00
	Interest.....	493 93
		5,593 93
" 24.— Do.	Draft .....	4,000 00
	Interest.....	377 42
		4,377 42
		12,475 04
	Damages.....	1,880 00
		14,355 04
	Carried forward.....	58,677 20

Brought forward..... 58,677 20  
 Oct. 22.—*Planters' and Mechanics' Bank*:

Draft .....	5,000 00
Int. to 28th Nov.....	35 48
	5,035 48
Then paid .....	3,210 00
	1,795 48
Int. to 17th Jan., '60..	17 20
	1,812 68
Then paid.....	1,620 00
	192 68
Int. to 1st April, '61..	16 18
	208 86

1859.

Nov. 13.— *Do.*

Draft .....	5,000 00
Interest .....	482 33
	5,482 33

Dec. 3.— *Do.*

Draft.....	6,200 00
Int. to 28th Feb., '60.	103 45

6,303 45

Then paid.....	1,620 00
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4,683 45

Int. to April 1, '61...	355 68
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5,039 13

10,730 32

Damages.....	1,620 00
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12,350 32

Nov. 24.—*People's Bank*:

Draft .....	5,000 00
Int. to 28th Nov.....	3 84

5,003 84

Then paid.....	1,000 00
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4,003 84

Int. to 18th Jan., '60..	39 15
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Carried forward.....	4,042 99
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71,027 52

Brought forward.....	4,042,99	71,027 52
Then paid.....	500 00	
	3,542 99	
Int. to 28th Feb.....	27 85	
	3,570 84	
Then paid.....	500 00	
	3,070 84	
Int. to 1st April, '61..	233 22	3,304 06
Damages.....	500 00	
		3,804 06
Acceptances of Wilbur & Price brought down.....	74,831 58	
	51,423 46	
		\$126,255 04

## D.

ACCOUNT SALES OF 36 NEGROES AND SCHOONER HETTIWAN,  
(embraced in "West Point Mill" purchase).

		Brought forward.	\$17,394
Charles.....	\$ 690	Archy.....	774
Thomas.....	774	Adam .....	410
Lewis .....	800	Richard.....	1,525
Charles.....	800	John L.....	600
Natt.....	1,440	Edward.....	1,100
Philip.....	1,100	John F.....	1,050
Chance .....	1,200	Jack.....	120
Gibby .....	1,100	Charles B.....	850
George.....	575	Tom P.....	350
Caesar.....	575	Quannino .....	830
Charles T.....	1,700	Tom H.....	140
John .....	1,850	Tom P.....	774
John B.....	780	June .....	1,600
Paul .....	360	John.....	900
David.....	1,875	Jeffrey.....	800
Frank.....	550	George.....	500
Marlboro .....	400	Gibbey.....	740
Sam .....	825	Henry .....	660

Carried forward...\$17,394

Gross sales of negroes.....	\$30,997
Sale of schooner Hettiwan.....	325
	\$31,322

## E.

## ASSESSMENT OF DOWER OF WIDOW.

Gross receipts by executors, as per their account.	\$310,028 69
Amount of uncollected assets in their hands....	27,326 64

Gross value of Estate.....\$337,355 33

Deduct disbursements on account of mill and expenses of administra- tion .....	\$55,188 27
Also, proceeds of sales Real Estate:	
West Point Mill.....\$97,000	
Dwelling-house ..... 25,000	
Lot on Commercial wharf 1,825	
Lot on Palmetto street.... 1,130	
	———— 124,955 00
	———— 180,143 27
Value of personal estate.....	\$157,212 06
Deduct bond debts secured by mort- gage of personalty:	
Three bonds to Rosa Lucas, Julius Lucas and Lucy Lucas, secured by mortgage of West Point lands, thirty-six negroes and schooner. Rateable apportion- ment of debt to negroes and schooner .....	\$15,988 96
Bond to Augustus Lucas, secured by mortgage of negroes..... 18,601 24	
Bond to I. Ball, guardian, secured by mortgage of negroes ..... 17,552 39	
Bond to R. DeTreville, secured by mortgage of negroes..... 23,929 44	
	———— 76,072 03
Applicable rateably to mortgages on land and unsecured specialty debts .....	\$81,140 03
Proportion of bonds to Rosa, Julius and Lucy Lucas, secured by mort- gage of West Point lands..... 49,518 70	
Bond to M. M. Lucas, secured by mortgage of dwelling-house lands 11,112 50	
Bond to P. J. Barbot, unsecured.. 2,626 88	
	————
	\$63,258 08

Brought forward.....	\$63,258 08
Foreign Bills of Exchange ranked as specialty .....	88,355 04
Amount of personality, mortgage debts and unsecured specialty.....	151,613 12
Per centage of personality to debts, 53½	
Bonds secured by mortgages on land	60,631 20
Rateable apportionment of person- ality to.....	32,437 69
	28,193 51
Proceeds sales of mortgage lands..	122,000 00
Deduct amount appropriated from personality .....	28,193 51
Value of mortgage lands subject to dower.....	93,806 49
Add lands not mortgaged :	
Lot on Commercial wharf	1,825
Lot on Palmetto street....	1,130 2,955 00
Value of unincumbered real estate.....	96,761 49
To one-sixth of which, or .....	\$16,126 91
the widow is entitled for her dower.	

## F.

## SIMPLE CONTRACT CLAIMS

Presented against estate of THOMAS BENNETT LUCAS,  
deceased.

NOTES—Interest computed to 1st April, 1861.

1859.

Oct. 13.—*Bank of Charleston*:

	Note .....	6,300 00	
	Protest .....	2 00	
	Interest .....	646 39	
		—————	6,948 39
" 18.— Do.	Note .....	4,200 00	
	Protest .....	2 00	
	Interest .....	426 90	
		—————	4,628 90
" 31.— Do.	Note .....	3,800 00	
	Protest .....	2 00	
	Interest .....	376 77	
		—————	4,178 77
Dec. 5.— Do.	Note .....	30,000 00	
	Protest .....	2 00	
	Interest .....	2,773 15	
		—————	32,775 15
		—————	48,531 21

Nov. 3.—*Bank of South Carolina*:

	Note .....	5,000 00	
	Interest .....	493 87	
		—————	5,493 87
Dec. 1.— Do.	Note .....	5,000 00	
	Interest .....	466 66	
		—————	5,466 66
		—————	10,960 53

Oct. 27.—*People's Bank*:

	Note .....	3,200 00	
	Protest .....	2 00	
	Interest .....	319 71	
		—————	3,521 71
" 28.— Do.	Note .....	5,000 00	
	Protest .....	2 00	
	Interest .....	483 17	
		—————	5,485 17
		—————	9,006 88

Amount carried forward.....\$68,498 62

Amount brought forward .....	\$68,498 62
Nov. 10.— <i>Bank of the State</i> :	
Note .....	2,800 00
Protest .....	2 03
Interest .....	271 71
	3,073 74
“ 15.— <i>Estate of H. Mompoey</i> :	
Note .....	800 00
Interest .....	76 87
	876 87
<i>Do.</i> Note .....	2,200 00
Interest .....	222 38
	2,411 38
	3,288 25
1859.	
Dee. 24.— <i>Estate of Françoise Perrier</i> :	
Note .....	3,000 00
Interest six per cent .....	222 98
	3,222 98
Oct. 12.— <i>F. C. Blum &amp; Son</i> :	
Note .....	2,293 78
Interest .....	235 34
	2,529 12
April 4.— <i>Dr. Elias Horlbeck</i> :	
Note .....	1,467 06
Interest .....	204 26
	1,671 32
Nov. 1.— <i>Mills, Beach &amp; Co.</i> :	
Note .....	979 55
Protest .....	2 00
Interest .....	96 93
	1,078 48
1860.	
Jan. 28.— <i>W. J. Bennett</i> :	
Note .....	1,412 59
Interest .....	115 68
	1,528 27
1859.	
Mar. 19.— <i>H. W. Conner &amp; Co.</i> :	
Mem. Check .....	3,000 00
Interest .....	426 90
	3,426 90
“ 25.— <i>Do.</i> Mem. Check .....	3,000 00
Interest .....	423 45
	3,423 45
	6,850 35
Amount carried forward .....	\$91,741 13

Amount brought forward..... \$91,741 13

1860.

Jan. 10.—*Frederick Richards:*

Acceptance of bill.....	675 97
Interest .....	57 68
	733 65

1859.

Oct. 6.—*Planters' and Mechanics' Bank:*

Note .....	3,300 00
Interest .....	342 39
	3,642 39

" 12.— Do. Note .....	6,000 00
Interest.....	615 62
	6,615 62

" 17.— Do. Note .....	950 00
Interest .....	96 56
	1,046 56

Nov. 3.— Do. Note .....	10,500 00
Interest .....	1,035 04
	11,535 04

Oct. 11.— Do. Note .....	1,500 00
Interest .....	154 19
	1,654 19
	24,493 80

" 21.—*Farmers' and Exchange Bank:*

Note .....	10,000 00
Protest .....	2 00
Interest .....	1,008 77
	11,010 77

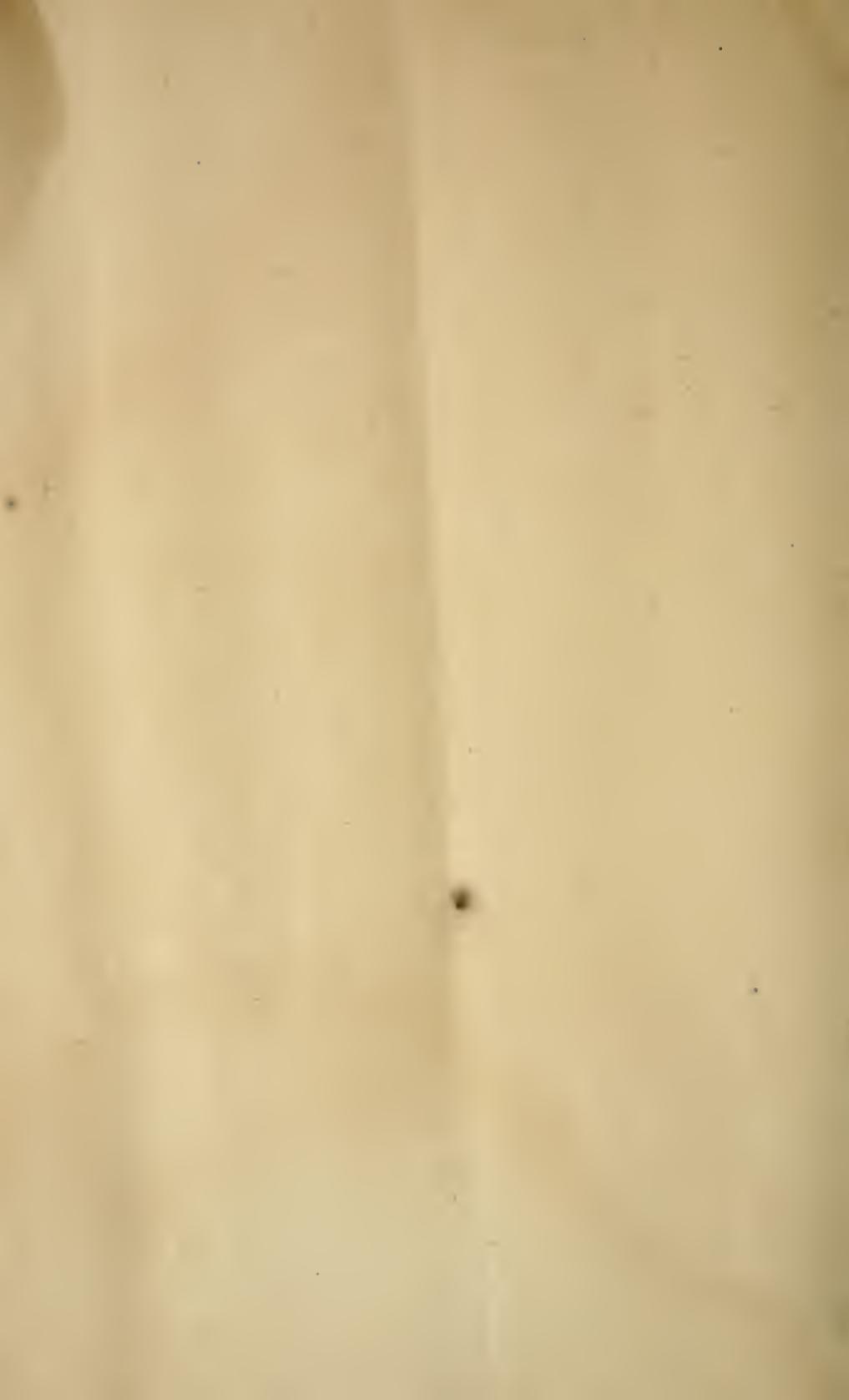
Dec. 7.— Do. Note .....	4,000 00
Protest .....	2 00
Interest .....	368 22
	4,370 22
	15,380 99

\$132,349 57

## CLAIMS.

O'Hear, Roper & Stoney.....	\$15,667	88
Cameron & Co.....	4,615	05
Ravenel & Co.....	4,500	00
Robertson, Blacklock & Co.....	1,471	41
Robert Jordan.....	1,198	34
Ainger & Bee .....	1,556	91
S. Z. Pitcher .....	961	54
E. & W. C. Horlbeck.....	646	64
Henry Buist.....	630	71
Estate of J. Charles Blum .....	552	65
Hill & Smith .....	503	98
F. C. Blum & Son .....	403	01
Macbeth & Buist.....	370	00
Lucas & Strohecker .....	365	84
J. B. Duval & Son .....	357	97
Carmalt & Briggs.....	342	54
Klinek, Wickenberg & Co.....	258	65
J. U. Boesch .....	239	57
L. M. Hatch.....	228	30
James Moore.....	219	33
Stunnings, Thominson & Co.....	198	00
Mills, Beach & Co .....	197	02
Hayden & Whilden.....	193	50
F. D. C. Kracke .....	189	86
Nayler, Smith & Co.....	168	96
James McLaren .....	160	55
S. N. Hart & Co .....	135	64
James B. Campbell.....	161	31
Thayer, Brigham & Field.....	119	41
Bashiba Smith.....	116	00
William Ravenel .....	111	00
Robert Adger & Co.....	86	23
C. H. West & Son .....	82	51
Graveley & Pringle .....	78	89
C. F. Colson .....	69	77
St. Paul's Church .....	68	64
Stoney & Wiltberger .....	61	44

A. F. Trouche.....	59	51
James McConkey .....	59	00
Matthiessen, O'Hara & Co.....	53	37
Commercial Wharves.....	50	12
Walker, Evans & Co.....	39	55
Dr. William T. Wragg .....	38	00
Henry Clark .....	35	57
H. F. Baker & Co.....	31	00
B. Ford.....	29	00
Mount Pleasant Ferry Company.....	28	00
Adger's Wharf.....	27	28
John Bonnell .....	26	64
Edgerton, Richards & Co.....	25	13
Lamberts & Howell .....	24	00
William Scott .....	19	25
C. Amme .....	19	00
Robert Jenney.....	17	75
Ravenel & Co.....	14	81
Horton & Shepherd.....	14	66
Thomas Kenney .....	13	69
Hugh E. Vineent.....	13	60
Vanderhorst Wharf.....	12	32
A. & R. B. McKenzie.....	9	00
F. M. Jones.....	8	25
Alva Gage & Co.....	6	56
Benjamin P. Bicaise.....	5	81
Richon & Travers.....	5	00
George W. Olney.....	4	75
John McKeegan .....	4	50
David Landreth & Co.....	2	50
W. J. Bennett.....	108	67
	38,095	34
Amount of Notes brought forward.....	132,349	57
	170,444	91
Claim of Children, ranked as simple contract...	2,400	44
	\$172,845	35









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